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APPLICATION NO	Э.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/601,080		06/19/2003	John L. Magnani	400068.413	7045	
500	7590	06/02/2006		EXAMINER		
SEED IN	TELLEC	TUAL PROPERTY	LAW GROUP PLLC	OUP PLLC EBRAHIM, NABILA G		
701 FIFTH	I AVE					
SUITE 630	00			ART UNIT	PAPER NUMBER	
SEATTLE	E, WA 98	104-7092		1618		
				DATE MAILED: 06/02/200	<i>c</i>	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
		MAGNANI ET AL.	
Office Action Summary	10/601,080 - Examiner	Art Unit	
	1		
The MAILING DATE of this communication a	Nabila G. Ebrahim	with the correspondence address	
Period for Reply	ppeuro on the cover sheet	viiii tiid con copenaanee aaan ee	
A SHORTENED STATUTORY PERIOD FOR REP WHICHEVER IS LONGER, FROM THE MAILING - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory perio - Failure to reply within the set or extended period for reply will, by statu. Any reply received by the Office later than three months after the mail earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMU 1.136(a). In no event, however, may d will apply and will expire SIX (6) Note, cause the application to become	NICATION. ra reply be timely filed NONTHS from the mailing date of this communication ABANDONED (35 U.S.C. § 133).	
Status			
1) Responsive to communication(s) filed on 2a) This action is FINAL. 2b) The since this application is in condition for allow closed in accordance with the practice under	iis action is non-final. ance except for formal m		3
Disposition of Claims			
4) ⊠ Claim(s) <u>1-20</u> is/are pending in the application 4a) Of the above claim(s) is/are withdrest solution of the above claim(s) is/are allowed. 5) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are objected to. 8) ⊠ Claim(s) <u>1-20</u> are subject to restriction and/or	rawn from consideration.		
Application Papers			
9) The specification is objected to by the Exami	ner.		
10)☐ The drawing(s) filed on is/are: a)☐ ad	ccepted or b)□ objected	to by the Examiner.	
Applicant may not request that any objection to the	e drawing(s) be held in abe	yance. See 37 CFR 1.85(a).	
Replacement drawing sheet(s) including the corre			d).
11)☐ The oath or declaration is objected to by the	Examiner, Note the attac	led Office Action of form P10-132.	
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for foreignal All b) Some * c) None of: 1. Certified copies of the priority docume 2. Certified copies of the priority docume 3. Copies of the certified copies of the priority docume application from the International Bure * See the attached detailed Office action for a li	nts have been received. nts have been received in iority documents have be eau (PCT Rule 17.2(a)).	n Application No en received in this National Stage	
Attachment(s) 1) Notice of References Cited (PTO-892)	4\ 🖂 Intervie	ew Summary (PTO-413)	
2) Notice of References Cited (FTC-692) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/0 Paper No(s)/Mail Date	Paper	No(s)/Mail Date of Informal Patent Application (PTO-152)	

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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-3, drawn to a method of screening in vivo for condition requiring or associated with angiogenesis, classified in class 424, subclass 9.2.
 - II. Claims 4-11, drawn to a method of screening in vitro for condition requiring or associated with angiogenesis, classified in class 435, subclass 7.1.
 - III. Claims 12-15, drawn to a method of treating a condition requiring or associated with angiogenesis, classified in class 514, subclass 8.
 - IV. Claim 16, drawn to a method for promoting angiogenesis in tissue engineering, classified in class 514, subclass 12.
 - V. Claims 17-20, drawn to a conjugate comprising compounds shown in figure 1 covalently attached to a diagnostic or therapeutic agent, classified in class 530, subclass 395.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the screening method is designed for in vivo is used for living tissue, with absolute caution

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to conserve the living tissue, while the screening method used in vitro is designed for non-living tissue of human, animal, a test-tube ... etc.

- 3. Inventions III and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case Invention III requires adjusting an effective amount of the compounds disclosed and administering them regularly to therapeutically affect an angiogenesis associated condition while Group I is a screening (diagnostic) method that is not used regularly and is not involved in the therapy of the condition.
- 4. Inventions IV and I are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions Group IV is related to tissue engineering, which is result, oriented, while Group I is a diagnostic method.
- 5. Inventions V and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the screening can be done using a different conjugate or composition.
- 6. Inventions III and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs,

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modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions Group III is a treating method that requires adjusting an effective amount of the compounds disclosed and administering them regularly to the appearing affect an angiogenesis associated condition while Group II is a screening method in vitro that needs different design and procedures.

- 7. Inventions IV and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, Claim IV is related to tissue engineering, which is result-oriented procedure, while Group II is a screening method, which is a testing method.
- 8. Inventions V and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the screening can be done using a different conjugate or composition.
- 9. Inventions IV and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions, Invention III requires adjusting an effective amount of the compounds disclosed and administering them regularly to therapeutically affect an

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angiogenesis associated condition while invention IV is a result-oriented method of promoting tissue engineering.

- 10. Inventions V and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the conjugate can be used in a therapy process for a disease or a condition.
- 11. Inventions V and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the conjugate can be used in a therapy process for a disease or a condition.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

12. A telephone call was made to Mr. Richard Sharkey on 5/16/2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

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requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nabila G. Ebrahim whose telephone number is 571-272-8151. The examiner can normally be reached on 8:00AM-5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on 571-272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nabila Ebrahim, M.D.

5/16/2006

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER